

Senate Bill 334

By: Senators Hill of the 32nd, Smith of the 52nd, Rogers of the 21st, Harp of the 29th,  
Cowser of the 46th and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to  
forgery and fraudulent practices, so as to provide definitions; to create the crime of medical  
identity fraud; to provide for punishment; to provide that actual and punitive damages are  
available to victims of medical identity fraud; to provide for related matters; to repeal  
conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to forgery and  
fraudulent practices, is amended by adding a new article to read as follows:

"ARTICLE 10

16-9-170.

As used in this article, the term:

(1) 'Health care records' means records however maintained and in whatever form  
regarding an individual's health including, but not limited to, doctor's and nurse's  
examination and other notes, examination notes of other medical professionals, hospital  
records, rehabilitation facility records, nursing home records, assisted living facility  
records, results of medical tests, X-rays, CT scans, MRI scans, vision examinations,  
pharmacy records, prescriptions, hospital charts, surgical records, mental health  
treatments and counseling, dental records, and physical therapy notes and evaluations.

(2) 'Health care resources' means health insurance, health savings accounts, health  
spending accounts, flexible spending accounts, medicare accounts, Medicaid accounts,  
dental insurance, vision insurance, and other forms of health insurance and health benefit  
plans.

(3) 'Identifying information' shall include, but not be limited to:

(A) Current or former names;

(B) Social security numbers;

(C) Driver's license numbers;

(D) Checking account numbers;

(E) Savings account numbers;

(F) Credit and other financial transaction card numbers;

(G) Debit card numbers;

(H) Personal identification numbers;

(I) Electronic identification numbers;

(J) Digital or electronic signatures;

(K) Medical identification numbers;

(L) Birth dates;

(M) Mother's maiden name;

(N) Selected personal identification numbers;

(O) Tax identification numbers;

(P) Veteran and military medical identification numbers;

(Q) State identification card numbers issued by state departments; or

(R) Any other numbers or information which can be used to access a person's or entity's health care records or resources.

(4) 'Numbers' means all combinations of letters, numbers, and symbols used to create identifying information or codes regarding individuals.

16-9-171.

(a) A person commits the offense of medical identity fraud when he or she willfully and fraudulently for the purpose of obtaining medical care, prescription drugs, or other health care services or money or other financial gain:

(1) Without authorization or consent, uses, or possesses with intent to fraudulently use, identifying information concerning an individual;

(2) Uses identifying information of an individual under 18 years old over whom he or she exercises custodial authority;

(3) Uses, or possesses with intent to fraudulently use, identifying information concerning a deceased individual;

(4) Creates or uses, or possesses with intent to fraudulently use, any counterfeit or fictitious identifying information concerning a fictitious individual with intent to use such counterfeit or fictitious identification information for the purpose of committing or facilitating the commission of a crime or fraud on another person; or

(5) Without authorization or consent, creates or uses, or possesses with intent to fraudulently use, any counterfeit or fictitious identifying information concerning a real

individual with intent to use such counterfeit or fictitious identification information for the purpose of committing or facilitating the commission of a crime or fraud on another person.

(b) Any person who commits the offense of medical identity fraud shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two nor more than ten years, by a fine not to exceed \$100,000.00, or by both. Any person who is convicted of medical identity fraud shall upon the second or subsequent conviction be guilty of a felony and shall be punished by imprisonment for not less than three nor more than 15 years, by a fine not to exceed \$250,000.00, or by both.

(c) Each violation of this Code section shall constitute a separate offense and shall not merge with any other offense.

16-9-172.

Any victim who is injured by reason of any violation of this article shall have a cause of action for the actual damages sustained and, where appropriate, punitive damages. Such victim may also recover attorney's fees in the trial and appellate courts and the costs of investigation and litigation reasonably incurred."

## **SECTION 2.**

All laws and parts of laws in conflict with this Act are repealed.